

### **REMARKS**

Applicant respectfully requests reconsideration. Claims 145-150 were previously pending in this application. Claim 145 is amended herein. As a result, claims 145-150 are still pending for examination with claims 145 and 148 being independent claims. The amendment and cancellation of claims are made solely to promote prosecution without prejudice or disclaimer of any previously claimed subject matter. With respect to all amendments and canceled claims, Applicant has not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicant expressly reserves the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and or divisional application(s). No new matter has been added.

### **Finality of the Office Action**

The Office Action summary states that the Office Action is non-final. Section #1 on Page 2 in the body of the Office Action confirms that the Office Action is non-final in that it states that "the finality of the previous Office action has been withdrawn" and "no outstanding ground of rejection is maintained." However, following the "conclusion" on page 3 it is stated that "this action is made final". In view of the Office Action Summary and the withdrawal of all outstanding grounds of rejection, it is believed that the rejection is a non-final rejection. If however, the Office Action is considered to be Final it is requested that the Office Action be withdrawn and a new Office Action be mailed with a new response date without the confusion of record.

### **Rejection Under 35 U.S.C. 112**

Claims 145-147 and 149 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular it is stated that claim 145 is ambiguous and unclear. Applicant has amended claim 145 to clarify that the cancer is a multiple myeloma, lymphoma or leukemia and that the lymphoma may be Hodgkin's lymphoma or lymphocytic lymphoma. In view of the amendment it is believed that the rejections should be withdrawn.

**Rejection Under 35 U.S.C. 102**

Claims 145-147 and 149 have been rejected under 35 U.S.C. 102(a) as being anticipated by Vidovic et al. (Cancer Letters [1998] 128(2):127-135; U on form PTO-892, newly cited).

Attached is a print-out from PubMed indicating a publication date of June 1998. Applicant's earliest effective priority date is April 17, 1998. It is believed that each of claims 145-147 and 149 is supported in the provisional application filed April 17, 1998. Thus, Vidovic et al. is not prior art against claims 145-147 and 149.

Further it is noted that the antibodies of Vidovic et al. were not administered to humans. Claim 149 requires that the subject be a human. Thus, claim 149 could not be anticipated by Vidovic et al. even if it were prior art against the claims.

**Allowable Subject Matter**

Applicant thanks the Examiner for the indication that claims 148 and 150 are allowed. In view of the above comments and amendments it is believed that all the pending claims are now allowable.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. A0906.70008US00

Dated: July 2, 2008

Respectfully submitted,

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1: Cancer Lett. 1998 Jun 19;128(2):127-35.

ELSEVIER Links

# Selective apoptosis of neoplastic cells by the HLA-DR-specific monoclonal antibody.

Vidović D, Toral JJ.

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The human major histocompatibility complex (MHC) class II molecule-specific monoclonal antibody (mAb) 8D1 can induce apoptosis of tumor cells expressing HLA-DR molecules on their surface. This effect is associated with a cross-linking of HLA-DR, since monovalent Fab fragments of 8D1 cannot mediate cytotoxicity unless they are anchored to a solid support. Anti-neoplastic activity of 8D1 is highly selective, i.e. the mAb affects neither the viability nor the function of non-malignant HLA-DR+ cells. These findings raise the possibility of a selective antibody-based anti-tumor therapy of class II positive blood cell neoplasm.

PMID: 9683273 [PubMed - indexed for MEDLINE]

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Characterization of a humanized IgG4 anti-HLA-DR monoclonal antibody that lacks effector cell functions but retains direct antilymphoma activity and increases the potency of rituximab. [Blood. 2006]

Distinct HLA-DR epitopes and distinct families of HLA-DR molecules defined by 15 monoclonal antibodies (mAb) either anti-DR or allo-anti-I-EK cross-reacting with human DR molecule. I. Cross-inhibition studies of mAb cell surface fixation and differential binding of mAb to detergent-solubilized HLA molecules immobilized to a solid phase by a first mAb. [Eur J Immunol. 1983]

Down-regulation of class II major histocompatibility complex molecules on antigen-presenting cells by antibody fragments. [Eur J Immunol. 1995]

Induction of negative regulators of haematopoiesis in human bone marrow cells by HLA-DR-specific antibody. [Leukemia. 1999]

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